

Jeffery J. Oven
Mark L. Stermitz
Jeffrey M. Roth
CROWLEY FLECK PLLP
490 North 31st Street, Ste. 500
P.O. Box 2529
Billings, MT 59103-2529
Telephone: 406-252-3441
Email: joven@crowleyfleck.com
mstermitz@crowleyfleck.com
jroth@crowleyfleck.com

Peter R. Steenland
Peter C. Whitfield
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
Telephone: 202-736-8000
Email: psteenland@sidley.com
pwhitfield@sidley.com

Counsel for TransCanada Keystone Pipeline, LP and TC Energy Corporation

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

INDIGENOUS ENVIRONMENTAL
NETWORK and NORTH COAST RIVERS
ALLIANCE,

Plaintiffs,

vs.

PRESIDENT DONALD J. TRUMP,
UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as U.S. Secretary of State;
UNITED STATES ARMY CORPS OF
ENGINEERS; LT. GENERAL TODD T.
SEMONITE, Commanding General and
Chief of Engineers; UNITED STATES FISH
AND WILDLIFE SERVICE, a federal
agency; GREG SHEEHAN, in his official
capacity as Acting Director of the U.S. Fish
and Wildlife Service; UNITED STATES
BUREAU OF LAND MANAGEMENT, and
DAVID BERNHARDT, in his official

CV 19-28-GF-BMM

**DEFENDANTS TC ENERGY
CORPORATION AND
TRANSCANADA KEYSTONE
PIPELINE, LP'S MOTION FOR
SUMMARY JUDGMENT**

capacity as Acting U.S. Secretary of the Interior,

Defendants,

TRANSCANADA KEYSTONE PIPELINE, LP, a Delaware limited partnership, and TC ENERGY CORPORATION, a Canadian Public company,

Defendant-Intervenors.

MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1 of this Court, Defendant-Intervenors TransCanada Keystone Pipeline, LP and TC Energy Corp. (“TC Energy”) hereby move for summary judgment on all claims in Plaintiffs’ First Amended Complaint (Doc. 37). For the reasons set forth in its response to this Court’s request for additional briefing (Doc. 74), TC Energy has asked the Court to dismiss Plaintiffs’ amended complaint in its entirety, because the supplemental briefing demonstrates that they cannot prevail on their claims as a matter of law. *See* TC Energy’s Supp. Br. (Doc. 76). In the event that the Court concludes that the supplemental filing cannot be used as a vehicle for such relief, TC Energy is filing this motion for summary judgment.

In accordance with Local Rule 56.1, TC Energy is also filing with this Motion a Statement of Undisputed Facts and Memorandum of Law in Support of Summary Judgment.

Counsel for TC Energy has contacted counsel for the parties in this matter.

Counsel for Federal Defendants represented that the United States does not oppose this motion. Counsel for Plaintiffs represented that Plaintiffs oppose this motion.

January 24, 2020

Respectfully Submitted,

CROWLEY FLECK PLLP

/s/ Jeffery J. Oven

Jeffery J. Oven
Mark L. Stermitz
Jeffrey M. Roth
490 North 31st Street, Ste. 500
Billings, MT 59103-2529
Telephone: 406-252-3441
Email: joven@crowleyfleck.com
mstermitz@crowleyfleck.com
jroth@jcrowleyfleck.com

SIDLEY AUSTIN LLP

/s/ Peter R. Steenland, Jr.

Peter R. Steenland, Jr.
Peter C. Whitfield
1501 K Street, N.W.
Washington, DC 20005
Telephone: 202-736-8000
Email: psteenland@sidley.com
pwhitfield@sidley.com

Counsel for TransCanada Keystone Pipeline LP and TC Energy Corporation